IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.2567 OF 1996

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?

2. To be referred to the reporters or not ?

3. Whether their lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?

5. Whether it is to be circulated to the Civil Judge?

JAGATSINH TAKHATSINH DABHI
VERSUS
STATE OF GUJARAT & ORS.

Appearance:
MR HM PRACHHCHAK FOR PETITIONER
MR VM PANCHOLI FOR RESPONDENTS

Coram: MR.JUSTICE S.K. Keshote,J
Date of decision: 09/05/2000

C.A.V. JUDGMENT

#. Challenge has been made by petitioner in this writ petition to the orders passed by respondents of

confiscation of entire seized stock worth Rs.30,330/= of the petitioner.

#. The learned counsel for the petitioner contended that both the authorities have committed serious illegality in confiscating the seized stock of the commodities, i.e. edible oil and oil seeds etc. It has next been contended that it is only a technical breach of the orders made under section 3 of the Essential Commodities Act, 1955 and the confiscation of the stock to the extent of Rs.33,000/= and odd is highly excessive penalty. Lastly, it is contended that there is no mens-rea or dishonest intention and without any evidence of selling these essential commodities in black market, the authorities should have taken a lenient view. In support of his contention, he placed reliance on two decisions of this court, in the case of Laxmi Oil Mills & Industries v. State of Gujarat & Anr. reported in 1987(2) GLH (UJ) 33 and in the case of M/s.Govind Karsan & Company v. State of Gujarat & Ors. reported in 1983 GLH 24. Shri Pancholi, AGP, supports the orders passed by the authorities.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. Each case has to be decided on its own facts. It is not the case where the petitioner is a layman. Both the authorities have found it to be a clear case of contravention of the relevant Orders, i.e. Pulses, Edible Oilseeds and Edible Oil (Storage Control) Order, 1977. Merely because the petitioner has not noticed the amendment in the aforesaid Order, it can hardly be a ground for taking of the lenient view by the authorities. The Order has been amended by notice dated 25th September 1993 which has been published in the Gazette of 6th October, 1993. The petitioner is a businessman and dealing in essential commodities and it is too difficult to accept that he has no knowledge of this amendment in the Order. As per the amended Order, the commodity found with the petitioner is certainly in excess of the permissible quantity and as such the order for confiscation thereof has been made by both the authorities. It is not the case where any lenient view needs to be taken. The learned counsel for the petitioner has failed to make out any case for taking of the lenient view. It is a case where there is contravention of the Orders framed u/s.3 of the Essential Commodities Act, 1955, and looking to the present scenario in the country, a stricter view is need of time. It is not unknown that these dealers are invariably

violating the Orders framed under the Essential Commodities Act, 1955.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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(sunil)